

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

**Clifford & Debra Meylor,**  
Petitioners-Appellants,

v.

**Plymouth County Board of Review,**  
Respondent-Appellee.

**ORDER**

**Docket No. 09-75-0656**  
**Parcel No. 23-35-326-003**

On September 29, 2010, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioners-Appellants, Clifford & Debra Meylor, requested a telephone hearing. They were self-represented. The Board of Review designated County Attorney, Darin Raymond, as its legal representative. Assessor Robert Heyderhoff represented the Board of Review at the telephone hearing. The Appeal Board now having examined the entire record, heard the testimony, and being fully advised, finds:

***Findings of Fact***

Clifford and Debra Meylor, owners of property located at 33240 Glen Drive (Lot 17), Sioux City, Iowa, appeal from the Plymouth County Board of Review decision reassessing their property. According to the property record card, the subject property consists of a two-story frame dwelling having 5131 total square feet of living area, a full basement with 2300 square feet of finished area, and a 1026 square-foot attached garage. The dwelling was built in 2000, has geo-thermal heating and a E+05 quality grade. The dwelling is situated on 7.720 acres.

The real estate was classified as residential on the initial assessment of January 1, 2009, and valued at \$906,460, representing \$62,500 in land value and \$843,960 in dwelling value.

Meylors protested to the Board of Review on the grounds (1) the assessment is not equitable as compared to similar properties in the taxing jurisdiction under Iowa Code 441.37(1)(a), the property is assessed for more than the value authorized by law under section 441.37(1)(b), and there is an error in the assessment under section 441.21(1)(d). The specific error listed was failure to consider an existing utility easement and two underground gas pipelines on the value of the property. They claimed the actual value of the property is \$497,085, allocated \$35,295 to land value and \$461,790 to building value, represents the actual value of the property. The Board of Review granted the protest, in part, and reduced the total assessment to \$895,960 to correct an error in the adjustment for a native prairie exemption.

The Meylors filed their appeal with this Board and claimed the ground of equity under 441.37(1)(a). They contend that comparative properties with the same or more square feet and acreage are assessed at a far lower value than their property. The Meylors identified two properties as equity comparables. The Wells property is a larger home than the subject property with 8217 square feet of living area. The property is assessed at \$802,510, representing \$43,100 in land value, \$746,000 in dwelling value, and \$13,410 in improvement value. The dwelling is classified rural residential and sits on agriculturally classified land. The second property identified, owned by the Luse family, is approximately the same size, and slightly newer than the Meylor residence. It is assessed for \$513,760. It is residentially classified and sits on 16.08 acres. This property was sold near the January 2009 assessment date for \$410,000.

Clifford Meylor testified a 100 foot overhead power-line and a 100 foot utility easement limits the desirability of his property. He points to a similarly situated property to the north of his that has been listed for sale for ten years as proof of his assumption. Meylor testified that he purchased both lots 17 and 18 for \$65,000. He was aware of the easements at the time.

Assessor Robert Heyderhoff indicated the reduction made by the Board of Review corrected a computer error in the original calculation of the Meylors' adjustment for a native prairie exemption. According to Heyderhoff, it is not his practice to make land value adjustments for easements because they are common in the county. This Board believes if an adjustment is justified, then one can be made. An easement often restricts a portion of the land's use and any potential restriction should be considered when determining "market value" as defined by section 441.21. However, no evidence was presented to prove how the power lines and utility easement affected market value. Nor was credible evidence presented to indicate an amount of adjustment for the Meylors' easements.

Heyderhoff reported the subject parcel land (lot 17) is assessed at \$52,000 and lot 18 is assessed at only \$7500. He also testified the Luse property identified by Meylor was a sale by a lender acquired as a result of a foreclosure following a sheriff's tax sale. Without adjustment this sale is not a reliable indicator of the property's fair market value. He also reported the Wells property is not suitable for equity comparison because it is classified agricultural. He argues since agricultural land is valued by its productivity and earning capacity and residential land is valued by its market value; the two properties are not comparable for equitability analysis. We agree.

Finally, without more, it would be pure conjecture to assume the property has not sold because of the power line and easement and is insufficient to prove inequity in the assessment.

Reviewing all the evidence, we find that the preponderance of the evidence does not support the Meylors' claim of inequitable assessment as of January 1, 2009.

### *Conclusion of Law*

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal



Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are also to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

The sole ground for this appeal was inequity in the assessment under section 441.37(1)(a). To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The gist of this test is the ratio of the difference between the assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1). The Meylors did not argue that an assessing method was not equally applied under the *Eagle Food* analysis and did not provide the proof necessary under the *Maxwell v. Shriver* test. Further, the power lines and easement do not make the subject property's assessment inequitable.

Viewing the evidence as a whole, we determine that the preponderance of the evidence does not support Meylors' claim of inequity in the January 1, 2009, assessment. Therefore, we affirm the property assessment as determined by the Board of Review. The Appeal Board determines that the property assessment value as of January 1, 2009, is \$895,960, representing \$52,000 in land value after native prairie exemption and \$843,960 in dwelling value.

THE APPEAL BOARD ORDERS that the January 1, 2009, assessment as determined by the Plymouth County Board of Review is affirmed.

Dated this 25 day of October 2010.

Jacqueline Rypma  
Jacqueline Rypma, Presiding Officer

Karen Oberman  
Karen Oberman, Board Chair

Richard Stradley  
Richard Stradley, Board Member

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>10-29</u> , 201 <u>0</u>	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	<u>Ethan Meyer</u>